Case No. 83-1461

IN THE

Supreme Court of the United States

OCTOBER TERM, 1983

MIGUEL A. GARGALLO,
Petitioner,

v.

FRANKLIN COUNTY COURT OF COMMON PLEAS, DOMESTIC RELATIONS, ET AL.,
Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

BRIEF IN OPPOSITION BY RESPONDENTS HUGHES AND GARLINGER

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REASONS FOR DENYING THE WRIT

THE WRIT OF CERTIORARI SHOULD BE DENIED BECAUSE THE COURT BELOW PROPERLY HELD THAT THE FEDERAL COURTS DO NOT HAVE JURISDICTION OVER DOMESTIC RELATIONS MATTERS.

Petitioner has premised his petition for a Writ of Certiorari upon a claim, pursuant to S.Ct.R. 17 1a, that the decision of the Sixth Circuit Court of Appeals in the matter *sub judice* is in conflict with the decision of the Fourth Circuit Court of Appeals in the case of *Cole v. Cole*, 633 F. 2d 1083 (4th Cir. 1980). However, no conflict exists with respect to the legal principles followed by the Fourth Circuit and the Sixth Circuit in these two cases. The circuit courts applied the same rules of law but simply reached different outcomes based upon vastly different factual allegations.

In the *Cole* case, a Georgia resident brought suit against his former spouse, a North Carolina resident, and two North Carolina law enforcement officers, alleging claims of malicious prosecution, abuse of process, arson, conversion and conspiracy. The plaintiff asserted that subject-matter jurisdiction was based upon diversity of citizenship under 28 U.S.C. §1332 and the violation of his civil rights under 42 U.S.C. §1343. The district court dismissed the three claims against the former wife on the basis the matters concerned domestic relations and thus were not within the jurisdiction of the federal courts. *Cole* at 1087.

On review, the Fourth Circuit Court of Appeals carefully considered the various factual allegations of the claims. The allegations pertaining to the malicious prosecution and abuse of process claims included ones that plaintiff's former wife had filed false criminal charges that he assaulted her and harassed her by making profane telephone calls. The second claim alleged that plaintiff's former wife together with one of the defendant law enforcement officers had set fire to plaintiff's home. The third claim pertained to an incident wherein plaintiff alleged his former spouse cancelled his prepaid automobile liability insurance without notifying him and then contacted the defendant deputy sheriff to arrest plaintiff for driving in violation of North Carolina's financial responsibility statute. *Cole* at 1085-86.

The Fourth Circuit concluded that these facts do not present any true domestic relations claims. The Court noted that despite the supposed etiology of the emotions underlying the alleged facts or the bringing of the suit, the mere fact the plaintiff and one of the defendants had formerly been married would not strip the court of its jurisdiction since these same claims could have arisen between strangers. *Cole* at 1088-89.

By contrast, in the case at bar, the plaintiff's allegations relate directly to his divorce action and its progress through the judicial system. [See Appendix.] His former marriage

and divorce form the very basis of his complaint. For example, plaintiff alleged he was wrongfully refused his rights in the divorce action. [¶3 of the Complaint] He alleged that a party was joined in the divorce action in the absence of jurisdiction [¶4 of the Complaint] He alleged that improper documents were filed in the divorce action, that judges making rulings in the action lacked jurisdiction, and that the judgment rendered in the divorce action was done so without notice. It is clearly apparent that the thrust of plaintiff's complaint is to relitigate his divorce. Plaintiff has learned from his previous attempts that he cannot openly and directly relitigate his divorce action in federal court. See, *Gargallo v. Gargallo,* 487 F. 2d 914 (6th Cir. 1973) and *Gargallo v. Gargallo,* 472 F. 2d 1219 (6th Cir.), *cert. denied,* 414 U.S. 805 (1973). Plaintiff is now transparently attempting to achieve the same outcome by merely naming the attorneys and judges involved as defendants rather than his former spouse.

As this Court stated in *In re Burrus:*

> The whole subject of the domestic relations of husband and wife, parent and child, belongs to the laws of the states and not the laws of the United States.

136 U.S. 586, 593-94 (1980). And, as the Sixth Circuit stated in the case of *Firestone v. The Cleveland Trust Co.:*

> Even when brought under the guise of a federal question action, a suit whose substance is domestic relations generally will not be entertained in a federal court.

654 F. 2d 1212, 1215 (6th Cir. 1981). Unlike in the *Cole* case, it is clear from the allegations set forth in plaintiff's complaint that they do present domestic relations claims. Despite plaintiff's attempt to disguise them in the form of a federal question, the alleged facts in his complaint are inextricably

intertwined with plaintiff's divorce action and the domestic relations laws of the State of Ohio.

The Fourth Circuit Court of Appeals in the *Cole* case and the Sixth Circuit Court of Appeals in the matter *sub judice* both performed the same review and analysis to determine if the complaints in question involved domestic relations claims. In *Cole,* the circuit court ruled that the district court had jurisdiction to hear the non-domestic claims of plaintiff against his former spouse, which claims the court noted were only incidentally related to the parties' former marriage. In the case at bar, the circuit court recognized that plaintiff's claims were essentially domestic ones and therefore cannot be heard in federal court.

CONCLUSION

Based upon the foregoing, it is clear the Petitioner has failed to meet the requirement set out in S.Ct.R. 17.1. Therefore, his Petitition For A Writ of Certiorari should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that 3 copies of the foregoing were served upon the following on the 9th day of April, 1984 by first-class mail, postage prepaid, and further certify that all parties required to be served have been served:

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APPENDIX

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO EASTERN DIVISION

MIGUEL A. GARGALLO,
Plaintiff,

v. C-2-79-483

Franklin County Court of Common Pleas, Division of Domestic Relations; HON. JOHN W. HILL, Judge of said Court; HON. CLAYTON W. ROSE , JR., Judge of said Court; HON. WINSTON C. ALLEN, Judge of Licking County; HON. RICHARD H. FINEFROCK, Judge of Logan County; HON. GUY C. CLINE, Judge of Pickaway County;

Franklin County Court of Common Pleas, Criminal Division; HON. FREDERICK T. WILLIAMS, Judge of said Court;

Franklin County Municipal Court of Columbus; HON. LEO P. STARK, Judge of said Court; HON. GERVAIS W. FAIS, former Judge of said Court; HON. FRANK A. REDA, former

Judge of said Court; HON. GEORGENA HOWELL, former Judge of said Court; HON. JOSEPH M. CLIFFORD, Judge of said Court;

Franklin County Court of Appeals; HON. ALBA L. WHITESIDE, Judge of said Court; HON. DEAN STRAUSBAUGH, Judge of said Court; HON. ROBERT E. HOLMES, former Judge of said Court; HON. ARCHER E. REILLY, Judge of said Court;

GEORGE C. SMITH, Franklin County Prosecuting Attorney; MARVIN S. ROMANOFF, former Franklin County Assistant Prosecuting Attorney;

JAMES J. HUGHES, JR., former City Attorney; LAWRENCE A. GARLINGER, City Assistant Prosecutor;

THOMAS J. ENRIGHT, Clerk of Courts, Court of Common Pleas; RICHARD D. COE, former Deputy Clerk, Division of Domestic Relations;

PHILIP R. BRADLEY, Attorney; PAUL A. SCOTT,

Attorney; WILMORE
BROWN, Attorney; and
WILLIAM L. MILLARD,
Attorney;
Defendants

COMPLAINT AND DEMAND FOR TRIAL BY JURY

Now comes the above-named plaintiff, MIGUEL A. GARGALLO, In Propria Persona, and complains of the defendant herein, jointly and severally, and for his cause of action says:

I. JURISDICTION

1(a). The jurisdiction of this Court is invoked pursuant to the provisions of Title 28, United States Code, Section 1343 (1)(2)(3)(4), this being a civil action authorized by law, under Title 42, United States Code, Sections 1983 and 1985(2)(3), and to be commenced by any person: (1) To recover damages for injury to his person or property, or because of the deprivation of any right or privilege of a citizen of the United States, by any act done in furtherance of any conspiracy mentioned in section 1985 of Title 42; (2) To recover damages from any person who fails to prevent or to aid in preventing any wrongs mentioned in section 1985 of Title 42 which he had knowledge were about to occur and power to prevent; (3) To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, or any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States; (4) To recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights.

1(b). The rights, privileges and immunities sought to be secured by this action, are rights, privileges and immunities secured by the Due Process and Equal Protection of the Laws clauses of the Fourteenth Amendment to the Constitution of the United States as hereinafter more fully appears.

1(c). The jurisdiction of this Court is also invoked pursuant to the provisions of Title 28, United States Code, Section 1331(a), this being a civil action wherein the matter in controversy exceeds the sum or value of ten thousand dollars ($10,000.00), exclusive of interest and costs, and arises under the Constitution, laws, or treaties of the United States.

II. PARTIES

2(a). The plaintiff, MIGUEL A. GARGALLO, is a native of Argentina, presently residing in this County of Franklin, State of Ohio.

2(b). The defendants are, respectfully, the Franklin County Court of Common Pleas, Division of Domestic Relations; the Franklin County Court of Common Pleas, Criminal Division; the Franklin County Municipal Court of Columbus; the Franklin County Court of Appeals; Judges of said Courts and out-of-county Judges who rendered orders therein; the Franklin County Prosecuting Attorney and Assistant; the former City Attorney and Assistant; the Clerk of Courts of the Court of Common Pleas and Assistant; and Attorneys-at-Law practicing in said Courts.

III. CAUSE OF ACTION

3. The defendants acting under color of the authority vested in them by the laws of the State of Ohio, custom or usage have wrongly refused to afford to the plaintiff herein the rights, privileges and immunities guaranteed by the Due Process and Equal Protection of the Laws clauses of the

Fourteenth Amendment, in a divorce action instituted against him by attorney Bradley, in behalf of her client, in the Division of Domestic Relations, under Case No. 136,865, and in related causes of actions.

4. Before the Summons of the divorce action was served upon the plaintiff and returned, and thus in clear absence of jurisdiction, judge Hill made the brokerage house Bache & Co. a party defendant in the divorce action and issued a restraining order against it.

5. The *ex parte* proceeding of paragraph 4 was sought by attorney Bradley and was carried on without any notice whatsoever.

6. Said restraining order—paragraph 4—caused damages to the plaintiff herein in excess of ten thousand dollars ($10,000.00).

7. Attorney Bradley approved and submitted to the Division of Domestic Relations an "improper" document, which —on information and belief—was time-stamped as of June 13, 1969, and at a much later date docketed retroactively, so as to secure the running out of the time for filing the Notice of Appeal, since said document then appeared as a legitimate divorce decree against the plaintiff herein.

8. Then attorney Bradley wrongly played down the June 13, 1969 decree—paragraph 7—, which had the effect of dissolving all the temporary orders, sought and to enforce these orders, by contempt proceedings, against the plaintiff herein. In September of 1969, the Division of Domestic Relations, in clear violation of due process, rendered an order finding the plaintiff herein in contempt of court for failing to comply with the temporary orders.

9. Then the judges of the Domestic Relations Division, confronted with affidavits of bias and prejudice, requested of the Ohio Supreme Court their withdrawals from the divorce case, which were granted. The Honorable George B. Marshall, judge of the Common Pleas Court, General Division, was then assigned to the divorce case. On December

22, 1969, judge Marshall made a finding that *"the Decree* of divorce under date of June 13, 1969, *(was) not a proper Decree of divorce ... and the same (was* thereby) *ordered stricken from the files of the (divorce) case."* (Emphasis added.)

10. December 22, 1969, order—paragraph 9—had the effect of granting a new trial, and judge Marshall himself clarified this matter by rendering another order on December 30, 1969, stating:

> "Said decree of divorce is hereby vacated.
>
> *"This cause will be set for trial on the merits* before the Honorable Judge George B. Marshall, Franklin County, Ohio, Common Pleas Court."
>
> (Emphasis added.)

It should be pointed out that the June 13, 1969, decree, although not being proper was on the docket and then vacated upon motion filed after *two terms of court;* this lapse of time indicating that the vacation of the decree and its striking from the files were for substantial—not just procedural—reasons.

As of today, despite the passage of time, no (new) trial on the merits has ever been had on the divorce case. Judge Marshall is still a judge of the Common Pleas Court and he has not withdrawn from the divorce case.

11. Then on October 19, 1970, attorney Paul A. Scott, who succeeded Attorney Bradley, wrongly re-filed the voided and expunged decree of June 13, 1969, with forged signatures therein, obtained a certificate of judgment, and made a transfer of the dwelling house of the plaintiff herein onto the plaintiff in the divorce case. Thereafter, judge Allen, from Licking County, wrongly approved the re-filing on October 19, 1970, made by attorney Scott; despite the fact that judge Allen himself had previously set the divorce case for trial before him. On appeal (and petition for writ of prohibition), the Franklin County Court of Appeals reversed the re-filing

on October 19, 1970, and ordered that the decree be expunged from the files. Judge Allen—an out-of-county judge—abused his power and authority, since other judge (J. Marshall) had been assigned to the divorce case and was available.

12. Thereafter, judge Finefrock, from Logan County, wrongly rendered a new divorce decree on July 6, 1972, without a trial on the merits. This decree and a subsequent amendment of it were of interlocutory nature, since they did not dispose of all the claims involved, such as the dwelling house, and the court did not make any determination that there was no just reason for delay. Despite that this requirement for having a final judgment is statutory, as it is that of conferring jurisdiction to the courts of appeals only to final judgments, the Franklin County Court of Appeals wrongly usurped jurisdiction upon a declared premature notice of appeal, and affirmed judge Finefrock's decrees of divorce. Since the parties cannot confer jurisdiction to the courts of appeals, the exercise of jurisdiction by the Franklin County Court of Appeals to the interlocutory orders in question was a clear and manifest usurpation of power. The appellate judges involved in this usurpation of jurisdiction were Whiteside, Strausbaugh and Holmes, under Case No. 72AP-248 (Decision: Jan. 9, 1973; Journal Entry, Jan. 24, 1973).

Judge Finefrock, similarly as judge Allen, was an out-of-county judge, and he could not have authority to enter the divorce case, since judge Marshall already entered it and did not withdraw; also judge Allen had entered the divorce case and had not withdrawn. The Ohio Constitution, under Article IV, Section 5. (A)(3), requires of an assigned judge that "upon such assignment said judge shall serve in such assigned capacity until the termination of the assignment."

13. Also judge Cline, from Pickaway County, entered wrongly the divorce case, since the previous judge had not withdrawn; and ordered wrongly the Chemical Abstracts

Service—the plaintiff's employer—to withhold moneys from the plaintiff's salary and deposit the same onto the court, since the Chemical Abstracts Service was not a party defendant in the divorce action, this being a statutory requirement.

This order by judge Cline caused the plaintiff herein damages for more than seven thousand dollars ($7,000.00).

14. Attorney Paul A. Scott was instrumental of the works performed, in abuse of authority, by judges Allen, Finefrock and Cline. At the same time, in concerted action with the acts of these out-of-county judges, attorney Scott, in behalf of her client, persecuted the plaintiff herein by instituting against him an action in misdemeanor, in the Municipal Court of Columbus, on false allegations of nonsupport of children. In the Municipal Court, the City Attorney, the City Assistant Prosecutor and judge Howell acted in concerted action with attorney Scott, and changed, unlawfully, the language of the charged offense from misdemeanor to felony, and thus transferred the action to the Franklin County Court of Common Pleas, Criminal Division, where the Franklin County Prosecuting and Assistant Prosecuting Attorneys and judge Williams also acted in concerted action with attorney Scott and continued the harassment and persecution of the plaintiff herein. None of these two courts did have jurisdiction of the alleged domestic matters, since they were pending under the jurisdiction of another court—the Division of Domestic Relations—and it is axiomatic that the same matter cannot be, at the same time, under the jurisdiction of two courts, but rather only in the court where the action was first instituted, i.e., in the Domestic Relations Division. Besides, the children were living (with their mother) in the state of Florida, and it was thus Florida, not Ohio, which could initiate criminal action on these matters. This did not happen. All these facts were well known to the defendants and were on the face of the record before them. Finally, the defendants, confronted with a petition in prohibition, dis-

missed the felony action through another branch of the court. Before this dismissal, the defendants insisted that the plaintiff herein sign a release discharging them of any wrongs; this the plaintiff refused to and did not do.

15a. Then, judge Clayton W. Rose, Jr., of the Domestic Relations Division, in an *ex parte* proceeding, without notice to the plaintiff herein, and without authority, rendered, unlawfully, a judgment of May 30, 1975, awarding the dwelling house of the plaintiff herein to the plaintiff in the divorce action. Attorney Scott approved this judgment, and immediately obtained a certificate of judgment, had the house transferred onto the plaintiff, in the divorce case, and another person, domiciled in Florida, who purported to be a new husband, and immediately thereafter had the house sold to another party. In point, all of this without giving notice to the plaintiff herein. On appeal, the Franklin County Court of Appeal reversed judge Rose's judgment of May 30, 1975, on the ground that he did not have authority, pursuant to Ohio Constitution, Article IV, Section 5. (A)(3) and the fact that another judge was assigned to the divorce case by the Ohio Supreme Court. On its decision, reversing judge Rose's judgment of May 30, 1975, and remanding the cause "for further proceedings in accordance with law", the Franklin County Court of Appeals indicated that "in this (divorce) case, an evidentiary hearing would be preferable." (Case No. 75AP-322, p. 5 (2848)). Since no evidentiary hearing was held, pursuant to this decision, the plaintiff herein moved, later, the Division of Domestic Relations, to dismiss the divorce action for want of prosecution. This motion was overruled, acting again judge Rose, and in concerted action with attorney Scott. On appeal from this overruling, the Court of Appeals for the Third Appellate Judicial District of Ohio, from Lima, Ohio, sitting by assignment in this County of Franklin, declined to assume jurisdiction on the ground that said overruling "does not constitute a final order ... but is procedural in character leaving the ultimate issues to be

still determined." (Case No. 76AP-777). On further appeal, as of right, the Ohio Supreme Court also declined to hear this cause. As of this date, the Division of Domestic Relations unlawfully refused to proceed "in accordance with law" and the language of appellate decisions. The above unlawful judgment of judge Rose, filed on May 30, 1975, rendered without authority, in violation of the Ohio Constitution and the due process, caused damages to the plaintiff herein well in excess of ten thousand dollars ($10,000.00).

15b. The Domestic Relations Division still did not file with the Clerk any orders regarding hearings held years ago on several motions, such as, (a) for change of child custody; (b) for an order striking from the divorce case files a false affadavit sworn to and signed by attorney Scott affirming that the divorce action was terminated; (c) for an order reprimanding attorney Scott for swearing to, signing and filing said perjured affadavit; and (d) for an order seeking damages resulting from judge Cline unlawfull order, (see paragraph 13).

16. All of the foregoing were determined by the defendants on the basis of sex and without reference to the merits.

17. All of the foregoing policies, customs, practices, usages and course of conduct of the defendants constitute discrimination of the basis of sex against the plaintiff herein and against all men, and they are in violation of the plaintiff's rights secured by the Equal Protection of the Laws and Due Process clauses of the Fourteenth Amendment to the Constitution.

18. In all of the foregoing matter, the plaintiff herein has exhausted the remedies in the state courts, including the Supreme Court of Ohio, which declined to exercise jurisdiction.

19. On matter related to the foregoing, the plaintiff herein did file two causes of action, in the Municipal Court of Columbus, against attorney Wilmore Brown who represented the plaintiff herein, in the divorce action, and colluded there-

in with attorney Philip R. Bradley. The Municipal Court derelicted, unlawfully, to have these causes of action tried on the merits, that the plaintiff herein had to seek a writ in procedendo. In the meantime, and in concerted action with attorney Wilmore Brown and his counsel attorney William L. Millard, judge Stark dismissed the causes of actions on the ground that the plaintiff herein (and therein) was not represented by an attorney. This dismissal was unlawfull and was reversed by the Franklin County Court of Common Pleas. These causes were remanded to the Municipal Court with instructions to proceed in accordance with law; but this court did not proceed and subsequently the Franklin County Court of Common Pleas did grant the writ of procedendo. At this stage, judge Fais hindered, unlawfully the judicial process, by vacating a trial assignment for August 28, 1974, and then another for October 24, 1974. Then the plaintiff herein (and therein) sought a finding of contempt against judge Fais for his refusal to comply with the writ of procedendo. At this juncture, judge Reda, unlawfully, dismissed the causes of action for the second time, and because of these dismissals the Franklin County Court of Appeals refused to allow contempt against judge Fais. Thereafter, on appeal, judge Reda was reversed by the same Franklin County Court of Appeal (which did not allow a finding of contempt against judge Fais), and for the second time remanded these causes to the Municipal Court. Then judge Clifford—former Clerk of Courts of the Court of Common Pleas—assumed authority to dispose of these causes of action against attorney Wilmore Brown. Because judge Clifford had personal knowledge and, as former Clerk of Courts, was somewhat responsible for the above-mentioned irregularities (paragraphs 7 and 11) in the docket under his custody, the plaintiff herein (and therein) requested that he step aside. He refused this request. Then the plaintiff moved for disqualification and for an order changing venue. Judge Clifford continued his refusal and denied this motion in its

two branches, despite that it is a matter of court policy to seek a visiting judge when one of the parties in action is an attorney practicing in said court. At this point, the plaintiff threatened with another unlawful third dismissal did file an affidavit of prejudice against judge Clifford and did seek the removal of the two causes of action to this federal District Court. These removals, under Cases Nos. C-2-76-820 and C-2-76-821, of this District Court, were effectuated completely in the morning of November 12, 1976, by (a) filing verified Petitions for Removal with the Clerk of this Court and paying bonds to his satisfaction; (b) filing certified copies of the Petitions for Removal with the Clerk of the Municipal Court; and (c) serving copies of the Petitions for Removal upon attorney William L. Millard, counsel for attorney Wilmore Brown, by delivering said copies personally at his office. Although these procedural steps deprived the Municipal Court of jurisdiction, at least temporarily, since the morning hours of November 12, 1976, said court dismissed the two causes of action in the afternoon of said day, at 3:33 P.M. Judge Clifford, in concerted action with the other defendants, entered these dismissals. Since the Municipal Court lacked jurisdiction in the afternoon of said day, its judgments of dismissal were void *ab initio*. Despite this, on appeal, the Franklin County Court of Appeals, also in concerted action with the other defendants, affirmed, unlawfully, judge Clifford's judgments. Although, this District Court remanded the two cases to Municipal Court in December 1976, this latter court, as of this date, did not proceed with them. Judges Whiteside, Strausbaugh and Reilly rendered the decisions and judgments in the Franklin County Court of Appeals.

20. Attorney Millard, in behalf of attorney Brown, argued in the Municipal Court that the plaintiff herein, because of being foreign born, was not afforded constitutional rights of equal protection and due process. This posture of attorney Millard is violative of both the Fourteenth Amendment to

the Constitution and the Treaty of Friendship, Commerce, and Navigation, of July 27, 1853, between Argentina and the United States.

21. Also in the cases of action against attorney Brown, the plaintiff herein has exhausted the remedies in the state courts, including the Supreme Court of Ohio, which has declined to exercise jurisdiction.

22. The conduct of the defendants was part of and pursuant to a policy and plan to unlawfully discriminate against all men, in domestic matters, on the basis of sex, in violation of the Fourteenth Amendment.

23. On information and belief, there exists in the Domestic Relations Court an unwritten rule setting forth a course of action unfavorable to men, which is strictly applied.

24. Specifically, the plaintiff herein (and defendant in the divorce action) has systematically been afforded different treatment than has the maternal counterpart. In particular, no findings of contempt were ever allowed against the maternal counterpart for her failure to obey the child visitation orders and other orders; whereas a finding of contempt was allowed againt the plaintiff herein, although he did not disobey any court's order.

25. The defendants accomplished their unlawful acts by concerted action.

26. The defendants carried out their concerted actions by unlawful means.

27. The defendants performed their acts with knowledge and intent.

28. The defendants caused injuries to the plaintiff in his profession, reputation, health, and family matters.

29. The defendants caused financial damages well in excess of ten thousand dollars ($10,000.00).

WHEREFORE, plaintiff prays that this Court render a declaratory judgment declaring that the above-described policies, customs, practices and usages and courses of conduct of the defendants are unconstitutional as violative of

the equal protection and due process clauses of the Fourteenth Amendment as to the plaintiff and members of the plaintiff's class.

Plaintiff further prays that this Court render a judgment commanding the Municipal Court of Columbus to proceed in the causes of actions remanded from this Court to said court in December 1976.

Plaintiff further prays that this Court render a judgment affording him relief to which he may be justly entitled in the Court of Domestic Relations.

Plaintiff further prays that this Court render a judgment granting him compensatory and punitive damages, and for such other relief, legal and equitable, as to which he may show himself to be justly entitled.

/s/

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DEMAND FOR TRIAL BY JURY

Plaintiff hereby demands a trial by jury on all questions of fact.

/s/

MIGUEL A. GARGALLO